

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)

John J. ROSSI et al.)

Serial No.: 09/864,873)

Filed: May 25, 2001)

For: NUCLEOLAR TARGETING OF)
THERAPEUTICS AGAINST HIV)

Box Missing Parts

Attention:
Applications Branch

PETITION TO ACCEPT COLOR PHOTOGRAPHS
UNDER 37 C.F.R. § 1.84(a)(2)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants submit three (3) copies of the color photographs (submitted concurrently with all of the formal drawings) which comprise Figures 3A-G, , Figure 8A-H and 9A-L of the drawings, in compliance with the provisions of 37 C.F.R. § 1.84(a)(2). Also included is the requisite petition fee set forth in 37 C.F.R. § 1.17(h). In view of the interim waiver that black and white photocopies of the color drawings are no longer necessary, no black and white photocopies of the color photographs are being submitted. It is believed that color drawings are necessary to accurately and completely show the immunofluorescence staining of cells, which immunofluorescence is shown in various colors to represent differential staining. These photographs show the actual experimental results which are in color and are not graphic drawings which can be shown in black and white.

If any additional fees or overpayments are noted, the same should be charged or credited to Deposit Account No. 02-2135. One additional copy of this Petition is enclosed for that purpose.

Respectfully submitted,

Stephen A. Saxe

Stephen A. Saxe
Reg. No. 38,609
Rothwell, Figg, Ernst & Manbeck, P.C.
555 Thirteenth St., N.W., Suite 701 East Tower
Washington, D.C. 20004
Telephone (202) 783-6040

Enclosures
1954-330.PET

FEET TRANSMITTAL
for FY 2001
(Small Entity)

OTPE
IAPB
OCT 19 2005
PATENT & TRADEMARK OFFICE

		Complete if Known	
Total Amount of Payment	(\$130.00)	Application Number	09/864,873
		Filing Date	May 25, 2001
		First Named Inventor	John J. ROSSI
		Examiner Name	Not Yet Assigned
		Group Art Unit	1645
		Attorney Docket Number	1954-330

METHOD OF PAYMENT (check one)

- The Commissioner is hereby authorized to charge additional fees and credit any overpayment to Deposit Account Number 02-2135 in the name of Rothwell, Figg, Ernst & Manbeck
- Charge any Additional Fee Required Under 37 CFR 1.16 and 1.17
- Applicant claims small entity status.
- Payment Enclosed:
 - Check
 - Credit Card

FEE CALCULATION

1. FILING FEE

Fee Code	Fee \$	Fee Description	Fee Paid
201	355	Utility filing fee	[]
206	160	Design Filing Fee	[]
207	245	Plant Filing Fee	[]
208	355	Reissue Filing Fee	[]
214	75	Provisional Filing Fee	[]

SUBTOTAL \$

2. CLAIMS

Total Claims	Independent Claims	Extra Claims	Fee \$	Fee Paid
[]	[]	- 20**	= []	x \$9 = []
Independent Claims	[]	- 3**	= []	x 40 = []
Multiple Dependent Claims			+ 135 = []	

**or number previously paid, if greater,

SUBTOTAL \$

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Fee Code	Fee Paid	Fee Description	Fee Paid
205	65	Surcharge - late filing fee or oath	[]
227	25	Surcharge - late provisional filing fee or cover sheet	[]
139	130	Non-English specification	[]
147	2,520	For filing a request for reexamination	[]
112	920	Requesting publication of SIR prior to Examiner action	[]
113	1,840*	Requesting publication of SIR after Examiner action	[]
215	55	Extension for reply within first month	[]
216	195	Extension for reply within second month	[]
217	445	Extension for reply within third month	[]
218	695	Extension for reply within fourth month	[]
228	945	Extension for reply within fifth month	[]
219	155	Notice of Appeal	[]
220	155	Filing a brief in support of an appeal	[]
221	135	Request for Oral Hearing	[]
138	1,510	Petition to institute a public use proceeding	[]
240	55	Petition to revive -unavoidable	[]
241	640	Petition to revive - unintentional	[]
242	620	Utility issue fee (or reissue)	[]
243	220	Design issue fee	[]
244	300	Plant issue fee	[]
122	130	Petitions to the Commissioner	[]
123	50	Processing fee under 37 CFR 1.17(q)	[]
126	180	Submission of Information Disclosure Statement	[]
581	40	Recording each patent assignment per property (times number of properties)	[]
246	355	Filing a submission after final rejection (37 CFR 1.129(a))	[]
249	355	For each additional invention to be examined (37 CFR 1.129(b))	[]
279	355	Request for Continued Examination (RCE)	[]
169	900	Request for expedited examination of a design application	[]
195	300	Publication fee for early, voluntary, or normal publication	[]
196	300	Publication fee for republication	[]
089	200	Filing an application for patent term adjustment	[]
090	400	Request for reinstatement of term reduced	[]
		Other fee (specify)Petition to Accept Color Photographs	[\$130.00]

* Reduced by Basic Filing Fee Paid

SUBTOTAL

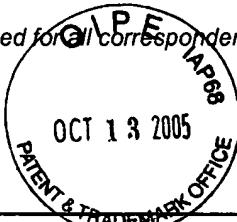
\$130.00

SUBMITTED BY		Complete (if applicable)		
NAME AND REG. NUMBER	Stephen A. Saxe, Ph.D., Reg. No. 38,609			
SIGNATURE	Stephen A. Saxe	DATE	September 13, 2001	DEPOSIT ACCOUNT USER ID

94
B1 IFW

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)



Complete if Known	
Application Number	09/864,873
Filing Date	May 25, 2001
First Named Inventor	John J. ROSSI et al.
Examiner Name	Jon B. Ashen
Group Art Unit	1635
Attorney Docket Number	1954-330
Confirmation Number	2281

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	1. Communication in Response to Request from Examiner
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s)	2. Photocopies of Previously Submitted Drawings (3 sets)
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	3. Previously Submitted filed Petition and Postcard indicating Receipt by Office
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	REMARKS:	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SUBMITTED BY		Complete (if applicable)		
NAME AND REG. NUMBER	Patrick T. Skacel, Reg. No. 47,948			
SIGNATURE		DATE	October 13, 2005	DEPOSIT ACCOUNT USER ID 02-2135



OCT 13 2005
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT & TRADEMARK OFFICE
OCT 13 2005
IAP88

Appl. No. : 09/864,873
Applicant : John J. ROSSI et al.
Filed : May 25, 2001
TC/A.U. : 1635
Examiner : ASHEN, Jon B.

Docket No. : 1954-330
Customer No. : 06449
Confirmation No. : 2281

Director of the United States Patent
and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

October 13, 2005

COMMUNICATION IN RESPONSE TO REQUEST FROM EXAMINER

Dear Sir:

This Communication is submitted in response to a series of telephone conferences between Applicants' undersigned attorney and Examiner Ashen concerning the color photographs previously submitted by Applicants and accepted by the Office in connection with the above-identified application. On September 13, 2001, Applicants submitted a Petition to Accept Color Photographs Under 37 C.F.R. §1.84(a)(2). A copy of the originally filed Petition and return postcard indicating receipt by the Office are attached to this Communication. In a paper from the Office dated April 20, 2005, the Office confirmed that the September 13, 2001 Petition had been granted.

However, on August 15, 2005, Examiner Ashen telephoned the undersigned, advising that the Office had misplaced one of the three previously submitted sets of the color photographs

and that all three sets are needed for the application to pass to issue. After discussing the matter, Applicants' undersigned attorney and Examiner Ashen agreed that, rather than undertake the expense and burden of producing new color photographs to replace those photographs that had been misplaced by the Office, Applicants would instead submit color photocopies of the original photographs. Accordingly, Applicants attach herewith new copies of all of the drawings on file in the application, in triplicate, including such color photocopies. Applicants believe the color photocopies are of sufficient quality to show the same detail as the originally submitted color photographs and that the photocopies do not introduce any new matter. Thus, Applicants respectfully request that the above-identified application promptly issue as a U.S. Patent.

Applicants also direct attention to the Application for Patent Term Adjustment Under 37 C.F.R. §1.705, filed July 15, 2004 by Applicants in connection with the present application. Applicants noted in that paper and reiterate herein, that the present application had been and continues to be pending for more than three (3) years, and thus, Applicants may be entitled to an additional term adjustment for any delay between payment of the issue fee and patent issuance, particularly in light of the fact that the need for the enclosed replacement drawing copies is based entirely on the Office's misplacement of the originally filed set. Applicants therefore again request that the Patent Term Adjustment be recalculated in light of this and other facts set forth in the July 15, 2004 Application for Patent Term Adjustment. Applicants respectfully ask that any recalculated Patent Term Adjustment be noted on the Issue Notification.

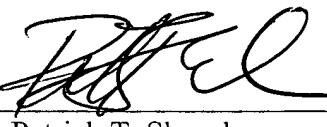
U.S. Application No. 09/864,873
Communication dated October 13, 2005

No fee is believed due in connection with the filing of this Communication. If, however, any fee is deemed necessary, authorization is hereby given to charge any such fee, or credit any overpayment, to Deposit Account No. 02-2135.

The Office is encouraged to telephone the undersigned if it would help expedite issuance of the above-identified application.

Respectfully submitted,

October 13, 2005

By 

Patrick T. Skacel
Attorney for Applicants
Registration No. 47,948
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040

Attachments: Copy of Previously filed Petition and postcard indicating receipt by the office
Photocopies of previously submitted drawings in triplicate

1954-330.AMD4.wpd

BEST AVAILABLE COPY

— ROTHWELL, FIGG, ERNST & MANBECK, P.C.

INVOICE	DATE	DESCRIPTION	NET
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	09/13/2001 1954-330 LW		130.00
	#24297		
	Petition		

24297

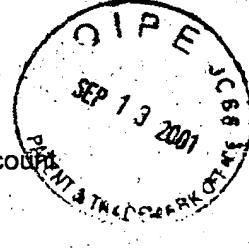
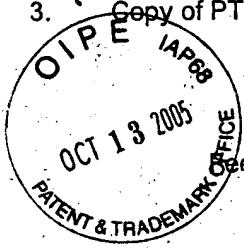
Date 09/13/2001 **COMMISSIONER OF PATENTS & TRADEMARKS** \$130.00

THE PATENT OFFICE'S STAMP HEREON IS ACKNOWLEDGMENT BY IT OF
RECEIPT OF THE FOLLOWING IN REGARD TO:

ATTORNEY DOCKET NO. 1954-330
SERIAL NO. 09/864,873
FILED May 25, 2001

APPLICANT/PATENTEE John J. ROSSI et.al.
ATTORNEY/TYPIST INITIALS SAS:lew
DUE DATE Sept. 13, 2001

1. Fee Transmittal w/check for \$130.00
2. Petition to Accept Color Photographs (submitted concurrently w/all the formal drawings --Figs. 1-12-- color photos submitted in triplicate)
3. Copy of PTO Notice



Fee: \$130.00 Check Deposit Account

BEST AVAILABLE COPY